

1 FRANKLIN COUNTY PLANNING AND ZONING
2 FRANKLIN COUNTY COMMISSION
3 FRANKLIN COUNTY GOVERNMENT CENTER
4 SECOND FLOOR COMMISSION CHAMBERS
5 400 EAST LOCUST STREET
6 UNION, MISSOURI 63084

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10 TRANSCRIPT OF PROCEEDINGS
11 PUBLIC MEETING
12 JANUARY 20, 2016

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[Commencing at 1:30 p.m.]

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Reported by:
Patsy A. Hertweck, C. R.
Midwest Litigation Services

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A P P E A R A N C E S

COUNTY COMMISSION MEMBERS:

- John Griesheimer, Chairman
- Timothy Brinker, Commissioner
- Jeff Maune, Commissioner

LEGAL COUNSEL AND STAFF:

- Mark Vincent, Attorney
- Ms. Scottie Eagan, Planning Director
- Ms. Nichole Zielke, Administrative Assistant.

MIDWEST LITIGATION SERVICES:

- By: Patsy A. Hertweck, C. R.
- 711 North Eleventh Street
- St. Louis, Missouri 63101
- (314) 644-2191

1 P R O C E E D I N G S

2 (JANUARY 20, 2016)

3 CHAIRMAN GRIESHEIMER: We will go ahead
4 and get started this afternoon. We're going to change the agenda
5 around a bit.

6 We're going to go ahead and hear File Number 150251
7 Rezoning Request for E and M Development Company.

8 Scottie, if you would, go ahead and start.

9 MS. EAGAN: First I'll start with the
10 hearing procedures, and then I will go into the staff report.

11 At this time, I would like to place into the record
12 the Franklin County Unified Land Use Regulations of 2001 as
13 Exhibit A, the official Zoning Map as Exhibit B, the official
14 Master Plan as Exhibit C, and the case file for each case as
15 Exhibit D for all the cases to be heard at this hearing.

16 [Thereupon, evidence was marked
17 for identification as Exhibits A, B, C,
18 and D.]

19 As each case is opened, the staff report will first
20 be read by the Planning and Zoning Department, followed by the
21 Commissioners' questions for the staff.

22 Then if anyone in the audience would like to speak
23 or comment during the hearing, they must first print their name
24 on the sign-in sheet provided and then be sworn in.

25 When it is your turn to speak, you will come to the

1 front of the room to address the Commission and only the
2 Commission, not anyone in the audience, with any questions or
3 comments.

4 Generally, the applicant for the rezoning is allowed
5 to speak first, followed by those in support of the rezoning and
6 then those opposed. The applicant may speak again after comments
7 from the general public to address any questions or issues
8 brought up during the hearing.

9 At the conclusion of all questions, comments, and
10 discussion concerning each case, the public hearing for each case
11 will conclude. The decision will generally be made by Commission
12 order at a later date during the County Commission's regular
13 meeting time.

14 This is File 150251 E and M Development.

15 The Applicant wishes to rezone one parcel
16 approximately 1.68 acres from Non-Urban and Agricultural to
17 Commercial Activity Highway Service.

18 The property is located at 1096 North Service Road
19 at the southwest corner of Old Highway 66 and I-44 in Union
20 township.

21 The Facts: The total area of the property is
22 approximately 1.68 acres in size.

23 The current zoning of this property is Non-Urban and
24 Agricultural.

25 The Applicant would like to rezone a parcel to

1 Commercial Activity Highway Services. Commercial Activity
2 Highway Service is a district that accommodates commercial uses
3 that draw businesses primarily along the major highways within
4 the county.

5 The surrounding properties are zoned Non-Urban and
6 Agricultural. This property is surrounded by undeveloped land,
7 one residential house and the interstate.

8 There appears to be an existing building on the
9 property that the Applicant plans to use for a business.

10 This property did have a CUP for automobile sales
11 that was approved for Torque, Ltd. in 2014. This business failed
12 to meet their conditions within a year. Therefore, the permit
13 expired. Because the CUP expired, there is now a violation for
14 running a business without a permit and also for having material
15 public nuisances.

16 In order to comply with County regulations, this
17 property would have to be rezoned and the material public
18 nuisances would need to be removed.

19 Staff Comments: Rezoning are allowed in our
20 regulations due to the every-changing conditions that exist in
21 the county and elsewhere. According to Article 14, Section 321,
22 any such change must promote the health, safety, morals, comfort,
23 and general welfare of Franklin County by conserving and
24 protecting property and building values,, by securing the most
25 economical use of land and facilitating the adequate provision of

1 public improvements in accordance with the Master Plan adopted by
2 Franklin County.

3 At the December 15, 2015 Planning and Zoning
4 Commission meeting, the Planning and Zoning Commission
5 unanimously recommended denial of this application.

6 CHAIRMAN GRIESHEIMER: All right. Thank
7 you very much.

8 Is there anyone in the audience wishing to testify
9 in favor of the rezoning? Please come forward. You'll need to
10 sign in at the podium there, then be sworn in by the young lady
11 there.

12 [Thereupon, the witness was sworn.]

13 MR. JOHN KING: Mr. Chairman and members
14 of the Commission, my name is John King. I'm an attorney in St.
15 Louis County, and I'm here this afternoon representing E and M
16 Development Company, who filed for this petition for rezoning on
17 the 1.68 tract of land. And I don't know if you have seen the --
18 if you have a copy of this. That's the piece, yeah, and the
19 piece has a building on it and a sign, a commercial billboard.

20 The billboard originally putted up by Druco
21 [phonetic]. They own that property. We don't own it, but they
22 own the property, and that billboard has been there for quite
23 sometime.

24 This piece of property has a building on it, and
25 presently out of the building is being operated a repair shop.

1 And the building has been operated in some manner or way
2 commercially for many years, and we have been paying taxes on it
3 as a commercial --

4 CHAIRMAN GRIESHEIMER: Excuse me. Is your
5 microphone on?

6 MR. KING: Pardon me?

7 COMMISSIONER BRINKER: There's a little
8 button there. If you move it more towards you.

9 MS. EAGAN: There you go.

10 MR. KING: Is that it?

11 MS. EAGAN: Just keep talking. It'll pick
12 you up.

13 CHAIRMAN GRIESHEIMER: Yeah.

14 MR. KING: It's okay. I got it.

15 This is a 1.68-acre tract of land. It has a
16 building on it, and presently they are doing auto repair. I
17 think there's five garage doors on the building, and it's being
18 used as an auto repair shop today.

19 Several reasons why this has been used commercially,
20 the tax bill, which I have a copy of right here that I'll have
21 marked, shows that it is taxed commercial and has been for quite
22 sometime, ever since E and M has owned the property, it has been
23 taxed as such.

24 The gentleman came to get an auto repair permit and
25 an occupancy permit and a permit to do business and was told that

1 he did not have the proper zoning, and that's why we have filed
2 the zoning.

3 We did not show up at the Planning Commission's
4 public hearing on this matter, and I have the -- Mr. Ezzelgot
5 from E and M Development stated the reason they didn't show up is
6 he thought that it was just a matter of form because it was
7 designated as commercial on the taxes and so on. So he did
8 not -- he was not here, and I'm assuming that was part of the
9 reason why it was turned down. Hopefully it was.

10 The -- what he would like to do is have it zoned
11 commercial for the use as an auto repair shop as it's being used
12 today and has been used for -- off and on for many years back
13 auto sales. It's been used for different things for many years,
14 and for as long as it's been there, it has been used as
15 commercial property.

16 E and M Development Company is a home building
17 company in St. Louis County. Built many, many fine subdivisions.
18 I've represented E and M Development for 25 or 30 years, ever
19 since they went into business, and they are an excellent
20 developer, and have built many fine homes. I think you'll find
21 that the homes that -- or the buildings that he'll have on this
22 site through the years will be well done and that that will be a
23 -- eventually a showplace out here in Franklin County.

24 He's presently putting in some fruit trees and
25 intends to have an orchard out there over the next several years.

1 Basically that's our proposal. It's on Highway 44.
2 It fronts on Highway 44. Of course, no access to it. You go off
3 at AH and you pull back into the site, and you're there to go to
4 the auto repair. There were quite a few cars that were at this
5 location to be fixed. I don't know if he was open today. I
6 don't think he was, and there was no activity when we went there.
7 So I assume that he was closed because of the weather.

8 But we are proposing that the tract be zoned this
9 highway commercial category that you have here in this Franklin
10 County.

11 If you have any questions, the owner of E M
12 Development [sic] is here this evening -- or this afternoon to
13 answer any of your questions, and I'll answers what I can.

14 CHAIRMAN GRIESHEIMER: I guess I'll start.

15 Did I hear right; is there a billboard on it now?

16 MR. KING: Uh-huh.

17 CHAIRMAN GRIESHEIMER: Okay. Let me ask
18 it's not on their parcel. It's not on this parcel?

19 MR. KING: No, no. Were not asking for
20 this parcel.

21 CHAIRMAN GRIESHEIMER: No. No, but I
22 mean, there is not a bill -- there is not currently a billboard
23 -- is there a billboard on this parcel or not?

24 COMMISSIONER MAUNE: On this parcel?

25 CHAIRMAN GRIESHEIMER: There is not?

1 COMMISSIONER MAUNE: Nested within in
2 this, it's cut out.

3 MR. KING: It's -- yeah.

4 COMMISSIONER MAUNE: See that's Druco owns
5 that little piece right there with the billboard on it.

6 CHAIRMAN GRIESHEIMER: Okay. Because I
7 was -- my understanding and I think I'm right, doesn't it have to
8 be commercial in order to have a billboard there?

9 COMMISSIONER MAUNE: No.

10 CHAIRMAN GRIESHEIMER: Okay. That's --
11 well, that's --

12 MS. EAGAN: Yes.

13 CHAIRMAN GRIESHEIMER: Yeah, that's what I
14 thought.

15 COMMISSIONER MAUNE: The billboard needed
16 to be located within 300 feet of commercial operation.

17 CHAIRMAN GRIESHEIMER: But it's got to be
18 zoned commercial, correct?

19 MS. EAGAN: Yes.

20 COUNTY ATTORNEY VINCENT: By our
21 regulation, yes. And the -- but ours is more restrictive than
22 the State.

23 CHAIRMAN GRIESHEIMER: Okay. So that's
24 number one. I kind of know where -- I know where the property
25 resides. Okay. It's off of Highway TT and in Park -- Orchard

1 Park down in there.

2 Scottie, why was the rezoning denied? Was it --
3 obviously, is there's a problem? What is -- what's the problem?
4 Tell me. I didn't get -- did they not show up? Why was it?

5 MS. EAGAN: I mean, I don't want to speak
6 for the Planning and Zoning Commission --

7 CHAIRMAN GRIESHEIMER: I understand.

8 MS. EAGAN: -- but it should be in your
9 transcript. Part of the reason was that they weren't there.
10 They also talked about looking at the Master Plan, did it meet
11 the Future Land Use map. They questioned whether or not it did.

12 CHAIRMAN GRIESHEIMER: To be honest with
13 you --

14 COMMISSIONER BRINKER: All I have is what
15 you --

16 CHAIRMAN GRIESHEIMER: Yeah, I do -- we do
17 not have transcripts.

18 COMMISSIONER BRINKER: It said -- all it
19 says is the Staff Comments, you know, rezonings are allowed,
20 yada, yada.

21 CHAIRMAN GRIESHEIMER: Yeah.

22 COMMISSIONER BRINKER: And then at the --
23 [crosstalk]

24 MS. EAGAN: It wasn't a part of your
25 packet?

1 CHAIRMAN GRIESHEIMER: No, ma'am.

2 COMMISSIONER BRINKER: And then --

3 CHAIRMAN GRIESHEIMER: It's not in mine.

4 MS. EAGAN: Okay. I apologize for that.

5 CHAIRMAN GRIESHEIMER: That's all right.

6 COMMISSIONER MAUNE: Okay, I have a
7 couple.

8 COMMISSIONER BRINKER: I'm -- I'm assuming
9 that you -- because is kind of on a publication. When applicants
10 have not attended, it's not really taken as seriously as when the
11 applicants are in attendance.

12 MR. KING: I know if I was on the
13 Commission or if I was in your position --

14 COMMISSIONER BRINKER: Right.

15 MR. KING: -- I wouldn't take it
16 seriously.

17 COMMISSIONER BRINKER: Sure. No, I
18 understand that, but if there is more to it than that, either
19 from a staff's perspective or a county planning recommendation
20 perspective, we need to hear that.

21 MR. KING: Yeah.

22 MS. EAGAN: I know we talked about the
23 Master Plan. It's kind of weird. It's almost seems like this is
24 an area that almost kind of got overlooked because if you look at
25 the Master Plan, it goes commercial to this point, and then where

1 the road separates, the north service road and 44 kind of bubble
2 at agricultural. And then when it comes back to a point, it goes
3 back to commercial.

4 So it could be that this is just happened to be one
5 we didn't do on because there were other areas we were focused
6 on, but they were looking at the Future Land Use map when making
7 their decision.

8 CHAIRMAN GRIESHEIMER: Okay. Let me go
9 back to my first question. Okay. The billboard that's there, is
10 that -- where that billboard is, is that zoned commercial?

11 MS. EAGAN: No, this is all zoned
12 Non-Urban and Agricultural. My guess is it's a prior existing
13 non-conforming use.

14 CHAIRMAN GRIESHEIMER: Okay. Okay, that's
15 what I need to know. But in your estimation -- okay. The Master
16 Plan it is not commercial, but really if you look at it, we have
17 rezoned areas in the past. The Master Plan has reflected
18 commercial -- these areas along the interstate, adjacent to the
19 interstate as commercial areas; is that correct?

20 MS. EAGAN: I honestly think it's an area
21 that was overlooked because we were so focused on other areas of
22 the county. I don't know why we would go commercial, skip two
23 properties, and then go commercial again.

24 CHAIRMAN GRIESHEIMER: Okay. The -- the
25 violations that are there now --

1 MS. EAGAN: Uh-huh.

2 CHAIRMAN GRIESHEIMER: -- okay, is that --
3 are -- is -- because I'm again trying to look at this and not
4 having a transcript. The violations that are there, or is it the
5 applicant?

6 MS. EAGAN: It's not the applicant. It's
7 the person who is leasing the property from the applicant.

8 CHAIRMAN GRIESHEIMER: Okay.

9 MR. KING: I will assure you that that --
10 those violations will be taken care of no matter what the result
11 of this hearing.

12 MS. EAGAN: That's the violations with
13 Torque.

14 CHAIRMAN GRIESHEIMER: Okay.

15 COMMISSIONER BRINKER: Yeah, because
16 evidently they don't meet the criteria or haven't met the
17 criteria for the CUP that was issued?

18 MS. EAGAN: Correct.

19 COMMISSIONER BRINKER: Therefore, they're
20 in violation as a result of that?

21 MS. EAGAN: Correct.

22 CHAIRMAN GRIESHEIMER: And see, that was a
23 concern that I had, that the violations were evident, but that's
24 not the case. It's the --

25 MS. EAGAN: Right.

1 CHAIRMAN GRIESHEIMER: -- the lessee.

2 MS. EAGAN: And that applicant is trying
3 to remedy one of them by getting the property rezoned.

4 CHAIRMAN GRIESHEIMER: Okay.

5 COMMISSIONER MAUNE: But it would still be
6 violations under our zoning code for the derelict vehicle --

7 MS. EAGAN: Yeah.

8 COMMISSIONER MAUNE: -- sitting around in
9 parts and pieces and those kind of things. So...

10 MS. EAGAN: Yes.

11 COMMISSIONER MAUNE: And haven't they
12 basically ignored everything that Planning and Zoning has done,
13 all the notices, the tenant has ignored it and the owner has
14 ignored that?

15 MS. EAGAN: The tenant definitely has. If
16 the owner filled out an application to rezone the property.

17 CHAIRMAN GRIESHEIMER: You want to -- do
18 you want to speak?

19 MR. MOSTAFA EZZELGOT: Yes.

20 CHAIRMAN GRIESHEIMER: Go ahead. Sign in
21 and swear you in.

22 MS. REPORTER: How do you want this
23 marked?

24 MR. KING: A1.

25 MS. REPORTER: Exhibit A1.

1 [Thereupon, evidence was marked for
2 identification and submitted for the record
3 as Exhibit A1.

4 [Thereupon, the witness was sworn.]

5 MS. REPORTER: Your name?

6 MR. EZZELGOT: The violation --

7 CHAIRMAN GRIESHEIMER: Speak into the
8 microphone.

9 MR. EZZELGOT: Oh, I'm sorry.

10 CHAIRMAN GRIESHEIMER: There you go.

11 MR. EZZELGOT: My name is Mostafa
12 Ezzelgot. And once the Franklin County sent the notes to him for
13 the violation, he give me a copy, and I talked with the lady in
14 Franklin County.

15 CHAIRMAN GRIESHEIMER: Why don't you speak
16 a little bit -- there you go.

17 MR. EZZELGOT: I talked with the lady here
18 in Franklin County downstairs, and he did clean it. He took all
19 of the derelict cars and all of the junk out of there. And then
20 they asked -- I don't know her name -- I said that he did what he
21 was supposed to. But he will comply with the -- or remedy all of
22 the violations, but when I bought it, I saw the taxes zoned as
23 commercial. And I seen it operate as commercial. I understood
24 it was commercial all along, and they do own the barn and the
25 house and the farm next to it. That's all -- we own it.

1 So my understanding it is commercial, and when I
2 leased it, I leased it as commercial, but then any violation in
3 that -- within that zoning definitely it will be taken care of by
4 the me or by him or definitely by us. We will not allow that
5 violation to exist. But when I talked with her -- I wish I
6 remember her name. When I talked with her, she said first get
7 the zoning. That will remedy the violation, whatever violation,
8 within that zoning would take care of it.

9 CHAIRMAN GRIESHEIMER: Mark, can I ask you
10 a question?

11 COUNTY ATTORNEY VINCENT: Sure, sir.

12 CHAIRMAN GRIESHEIMER: Okay. It's on the
13 record and obviously everything what they've said is sworn under
14 oath, but is -- you know, obviously if we rezone it, it gets
15 rezoned and that's it. Can we -- as stipulation to be rezoned,
16 can we write that as a stipulation that the violation would have
17 to be cleared up, or is that already in our regs or what?

18 COUNTY ATTORNEY VINCENT: We had the same
19 issue come up last night. No, you can't.

20 CHAIRMAN GRIESHEIMER: You can't.

21 COUNTY ATTORNEY VINCENT: You cannot put a
22 stipulation on a rezoning, but I want to make sure that everybody
23 understands that in the event, whether or not it was rezoned or
24 not, the violations are there. Just as Jeff mentioned that.
25 Today, tomorrow, whatever if it's rezoned or not rezoned, it

1 doesn't matter. If they're in violation, the violation will be
2 prosecuted in our municipal court.

3 CHAIRMAN GRIESHEIMER: Okay.

4 MS. EAGAN: We do have the file over at
5 Joe's office. We have the file over at Joe's office. He's
6 waiting to see what happens with the rezoning before he proceeds
7 with anything at this point.

8 MR. KING: And if there are violations
9 after the rezoning, which I assume there still will be, we'll
10 take care of those.

11 CHAIRMAN GRIESHEIMER: And just to
12 clarify, not doubting your word, but just to make sure that the
13 violations do get cleaned up, because obviously just like Mark
14 said, once it's rezoned, it's rezoned, and you can basically do
15 what you wanted.

16 MR. KING: Mr. Chairman, I have enough
17 confidence in my client that I will guarantee that those
18 violations are abated as soon as possible, and I know he will do
19 it because I have been -- I've represented him long enough I know
20 that his word is his bond.

21 COMMISSIONER MAUNE: Okay.

22 CHAIRMAN GRIESHEIMER: All right.

23 COMMISSIONER MAUNE: There is -- there is
24 no agricultural use on this property --

25 MR. KING: No.

1 COMMISSIONER MAUNE: -- anywhere? Okay.

2 And nobody lives in this block building?

3 MR. KING: No.

4 COMMISSIONER MAUNE: There's no residents
5 in there?

6 MR. KING: No.

7 MR. EZZELGOT: Not this block. But I own
8 three blocks. I -- when I bought it, it had the house, a barn,
9 and the commercial building, --

10 COMMISSIONER MAUNE: Right.

11 MR. EZZELGOT: -- but the only thing I
12 wanted to do on the commercial is the commercial building.

13 COMMISSIONER MAUNE: Right.

14 MR. EZZELGOT: I want to keep the house.

15 COMMISSIONER MAUNE: Right. I can't tell
16 from this plat that you have here where your line is.

17 MR. KING: Do you mind if I come in?

18 COMMISSIONER MAUNE: Where is the line for
19 the 1.68 acres?

20 MR. KING: The line is right here.

21 [Conferring]. You see these two there.

22 COMMISSIONER MAUNE: Uh-huh.

23 MR. KING: That's -- that's the line right
24 there.

25 MR. EZZELGOT: This is the area I want

1 rezoned.

2 COMMISSIONER MAUNE: Okay. That's where
3 the metal barn is, and that's where the house is?

4 MR. KING: Right.

5 MR. EZZELGOT: This that's the house.

6 COMMISSIONER MAUNE: Right.

7 MR. EZZELGOT: Then here I own this,
8 that's my house.

9 COMMISSIONER MAUNE: Okay, but in this
10 building here, this parcel here, there is no agricultural?

11 MR. EZZELGOT: No.

12 COMMISSIONER MAUNE: Okay. There is no
13 residence in here?

14 MR. EZZELGOT: No.

15 COMMISSIONER MAUNE: Okay. So I'm certain
16 your attorney realizes that Class 3 property in Missouri is
17 commercial, industrial and other. So if it's not residential and
18 if it's not agricultural, Class 3 property is what it should be
19 in, which is what is commonly referred to as commercial, but it's
20 actually commercial, industrial and other.

21 So the assessor has it properly classified, but that
22 has nothing to do with what the zoning is. It has to do with the
23 use of the property.

24 MR. EZZELGOT: Okay. That's what the lady
25 told me downstairs.

1 COMMISSIONER MAUNE: We all give the same
2 answers. Isn't that nice. So okay.

3 And how long has this zoning violation, the
4 violation of the Conditional Use Permit been going on? It's been
5 my understanding that it was ignored and ignored and ignored.

6 COMMISSIONER BRINKER: But it's really --
7 truly it's irrelevant because all we're here to hear is the
8 property itself and the Applicant wishes to have it zoned
9 commercial or not. That's all it is. It doesn't have anything
10 to do with any CUPs.

11 COMMISSIONER MAUNE: Well, I'm just trying
12 to figure out what --

13 COMMISSIONER BRINKER: It has nothing to
14 do with the hearing today.

15 COMMISSIONER MAUNE: Okay. Well, I'm just
16 trying to figure out what other violations might we have if we --

17 COMMISSIONER BRINKER: It does not matter.

18 COMMISSIONER MAUNE: -- if we -- if we
19 zone it into and allow other things to happen there, where we
20 going.

21 COMMISSIONER BRINKER: It does not matter
22 as to the pertinence of the property rezoning.

23 MR. KING: If there's violations, again
24 now, once you take action, we'll see that they're cleaned up.

25 COMMISSIONER BRINKER: But technically,

1 that's the County's responsibility no matter what it's zoned or
2 what does he has. The bottom line is this Board will decide if
3 it's in the best interest of the County --

4 MR. KING: Yes.

5 COMMISSIONER BRINKER: -- to make it
6 commercial or agricultural. That's all that's before us today
7 regardless of anything that's transpired to-date or anything
8 that's gone on in violation of the CUP or what have you, and
9 that's what we need to focus on.

10 MR. EZZELGOT: If you don't mind. The
11 reason I bought it back in '07 it used to be I had to take six
12 big dumpsters of dirt, because it's right in front of my place.
13 And I bought it just so I can keep it nice and clean.

14 If you looked at it back '07, if anybody has
15 pictures, there used to be somebody who runs wires for some
16 telephone company, it was a piece of junk. And I cleaned it. I
17 cleaned the barn. I cleaned the back. And this guy started with
18 junking it. He's irrelevant. He might be here today, out
19 tomorrow, but I wanted the place to be nice and clean.

20 And then I bought another six acres next to me on
21 the other side. It had a trailer. I took it down, cleaned it,
22 and put the new driveway, and eventually we put the house in
23 there. So it's in my interest to really keep that area nice and
24 clean.

25 COMMISSIONER BRINKER: Counselor, did I

1 misspeak or --

2 COUNTY ATTORNEY VINCENT: Not at all, sir.

3 In fact, I'd like to go just a little bit further with what you
4 said, Tim.

5 That is we cannot get into violations today.

6 There's two reasons. One, the person who has a Conditional Use
7 permit has some due process rights and revocation hearing if
8 you're going to revoke it. And also if the -- if there is in
9 fact violations, those are established in the process of having
10 Tori Karim, who's in effect our deputy sheriff, go out and
11 investigate. It's referred to the prosecutor, and the prosecutor
12 determines whether or not there is enough evidence there to
13 warrant a charge being issued against either the owner and/or the
14 lessee to bring it into our municipal court. That has not
15 happened.

16 We have a due processes that have to take place
17 first. So last night we had the same thing, talking about
18 violations that may or may not exist. We need to go through the
19 process.

20 CHAIRMAN GRIESHEIMER: Well, but just so
21 you know, for me, not having a transcript here and not knowing
22 the whole history here --

23 MS. EAGAN: Sorry.

24 CHAIRMAN GRIESHEIMER: -- I'm not -- don't
25 get me wrong. I'm not saying that, but my concern was the

1 Applicant was -- had the zoning violation and yet -- and that --
2 that was my concern. And so that's been cleared up. That
3 issue's non-existent. Okay.

4 MR. KING: Okay. I don't disagree with
5 you.

6 CHAIRMAN GRIESHEIMER: Now we're dealing
7 with the rezoning itself.

8 MR. KING: I don't disagree with this
9 gentleman at all.

10 COUNTY ATTORNEY VINCENT: I got promoted.
11 [crosstalk]

12 MS. EAGAN: And when I put stuff in my
13 staff report, I'm just trying to give you guys a history of the
14 property of what's there.

15 CHAIRMAN GRIESHEIMER: Sure, and we
16 appreciate that. And as I say, I wasn't -- not being critical,
17 but you know, trying to piece this out in my mind how all this is
18 going down, that's why I wanted to make sure, you know, and so
19 that has happened.

20 Tim, Jeff, you got any more for either Mr. King or
21 the Applicant?

22 COMMISSIONER MAUNE: No.

23 CHAIRMAN GRIESHEIMER: Is there anyone
24 else in the audience who'd like to speak on behalf of the -- in
25 favor of the application?

1 Okay. All right. Is there anyone in the audience
2 wishing to speak in opposition to the rezoning application, or
3 for informational purposes only on the rezoning application?

4 If not, that will conclude the hearing.

5 COUNTY ATTORNEY VINCENT: I would like to
6 make sure you all understand that since you received a negative
7 recommendation, that there is a different requirement to
8 overcome. You have to have a two-thirds majority instead of
9 simple majority.

10 CHAIRMAN GRIESHEIMER: Yeah.

11 COUNTY ATTORNEY VINCENT: Which in your
12 case is the same.

13 CHAIRMAN GRIESHEIMER: And normally it
14 would take at least two out of three to vote for it. In this
15 case, it'll still take a two out of three vote for it.

16 COMMISSIONER BRINKER: Motion to permit
17 the calculator.

18 COUNTY ATTORNEY VINCENT: I just wanted to
19 make sure that you all understood this is from the legislature.

20 MR. KING: Sir, I agree with you on that
21 too.

22 CHAIRMAN GRIESHEIMER: Okay. Unless
23 anybody has any other comments --

24 COMMISSIONER MAUNE: Can we leave this
25 open so I can go down and take a look at this again?

1 COUNTY ATTORNEY VINCENT: Only if you take
2 these guys with you. It's not part of the public hearing. If
3 the public closes, you can't leave it open.

4 COUNTY ATTORNEY VINCENT: You can't have
5 somebody part of the record that's only seen by one of you.

6 COMMISSIONER BRINKER: May I be so bold as
7 to ask what on earth you have to look at to decide whether this
8 zoning is appropriate for the parcel or not?

9 COMMISSIONER MAUNE: That's what I want to
10 look at again.

11 COMMISSIONER BRINKER: As it relates to
12 current zoning versus proposed zoning?

13 COMMISSIONER MAUNE: As opposed to what?

14 COMMISSIONER BRINKER: Current zoning
15 versus proposed zoning. What can you find elsewhere that hasn't
16 been made available by the Planning and Zoning Department here?

17 COMMISSIONER MAUNE: We don't have the
18 transcript. I don't have all that information. So I've been
19 told before that if I want to look at things and before we make a
20 vote, that I need to keep it open so that I can do that and
21 consider that information.

22 COUNTY ATTORNEY VINCENT: That's correct,
23 but you can't just keep the record open. What you're told is
24 that you should go down there beforehand and so you can report
25 back at the Commission at the public hearing itself.

1 You cannot close the public hearing if you're going
2 to solicit and allow additional evidence or information. You
3 cannot base it upon information that you have yourself. It's
4 going to be something that's on the record for everybody to be
5 advised of. So yeah, you can keep it open and you can go down
6 there, but these guys have to be familiar with what's going on.
7 You got to give the opportunity to the owners of or the
8 applicants to -- perhaps you want to have the hearing down there,
9 but you can't just go down and look yourself and say I don't like
10 it. You got to make sure the reasons for what you find are on
11 the record.

12 My job is to make sure the record is correct because
13 I don't want Mr. King do sue us on it, and we have a bad faulty
14 record.

15 COMMISSIONER BRINKER: May I?

16 Scottie, to the best of your recollection, the P and
17 Z meeting that took place regarding this subject matter, do you
18 recall any of the discussion other than the fact the Applicant
19 was not in attendance or the fact that that property was skipped
20 over when the zoning took place?

21 MS. EAGAN: From my recollection, that's
22 all they talked about.

23 COMMISSIONER BRINKER: Do you feel as
24 though the minutes will reflect same?

25 MS. EAGAN: Yes.

1 COMMISSIONER BRINKER: Would that suffice,
2 Commissioner?

3 COMMISSIONER MAUNE: It's going to have
4 to.

5 COMMISSIONER BRINKER: Well, or you could
6 ask the Planning and Zoning Director to call her assistant, make
7 a copy and run it up here for your review. We can all sit right
8 here, but I'm confident with my knowledge basis regarding the
9 subject matter. I don't know about anybody else.

10 CHAIRMAN GRIESHEIMER: I am too.

11 COUNTY ATTORNEY VINCENT: With the math
12 that I have, if you voted against it and they will vote for it,
13 it's still going to pass. That's a super majority.

14 COMMISSIONER MAUNE: Uh-huh.

15 COMMISSIONER BRINKER: It even meets the
16 super majority required.

17 COMMISSIONER MAUNE: Right. Okay. When
18 was the last time you were in that driveway?

19 COMMISSIONER BRINKER: In the what?

20 COMMISSIONER MAUNE: In the driveway of
21 this property.

22 COMMISSIONER BRINKER: It's irrelevant as
23 to the zoning of the property requested. It's irrelevant as to
24 my presence or not. What's relevant is does it meet the best
25 interest of this county as we elected officials foresee it, and

1 we're here to make those hard decisions.

2 CHAIRMAN GRIESHEIMER: Right. And was
3 there a mistake made when the mas- -- -- when the Master Plan
4 was adopted that this property was not rezoned correctly, and I
5 think it's pretty clear that, at least in my mind, that it was.
6 There was a mistake made. And we've run across a couple of these
7 where there's been a mistake made.

8 For the sake of argument, I have no problem. I
9 don't know exactly what you -- you want to go back. Yours is you
10 want to go back on -- look on the property. That's what you want
11 to do?

12 COMMISSIONER MAUNE: He said I can't do
13 that.

14 CHAIRMAN GRIESHEIMER: Well, no, we'll --

15 COUNTY ATTORNEY VINCENT: I didn't say
16 that.

17 CHAIRMAN GRIESHEIMER: You can do that as
18 long -- the only way you can do that is if we do not close -- we
19 keep the record open, okay, until you can do that. Okay. Now, I
20 don't know what you wanted to -- what copy you wanted -- I guess
21 I kind of lost you.

22 COMMISSIONER BRINKER: The transcript from
23 the P and Z meeting.

24 CHAIRMAN GRIESHEIMER: Oh, the transcript.
25 Okay, the transcript. Is that what you wanted, is a copy of the

1 transcript?

2 COMMISSIONER MAUNE: Well, I wanted to
3 have all the information from it. The last time I was there, it
4 was as a result of some discussions that were had about the
5 violations. And I went to the property, and it was locked up. I
6 couldn't get down. I could just see it from the driveway, and
7 that was that. I wasn't looking at it as a rezoning. I wasn't
8 there for a rezoning at that time. So I wasn't looking at it
9 with that eye. I want to look at it with that eye. I think if
10 I'm going to make an informed decision on this, I want to be
11 aware of exactly what I'm looking at.

12 Now, I appraised that building 20 years ago, and it
13 was --

14 COMMISSIONER BRINKER: What was it zoned
15 as?

16 COMMISSIONER MAUNE: You know, it doesn't
17 matter what the zoning is. We go by use at that time.

18 CHAIRMAN GRIESHEIMER: I'm waiting for him
19 to ask what it appraised for 20 years ago. Seriously, you're not
20 going to ask that. Thank you.

21 COMMISSIONER MAUNE: So...

22 CHAIRMAN GRIESHEIMER: Let me do this. I
23 do not -- Scottie --

24 MS. EAGAN: Uh-huh.

25 CHAIRMAN GRIESHEIMER: -- if you would,

1 when you have -- would you call Nichole real quick and have her
2 pull the transcript and --

3 MS. EAGAN: Yeah.

4 CHAIRMAN GRIESHEIMER: -- and make a copy
5 and send it up here. Because it really -- it -- it does need to
6 be a part of the record anyway that we're looking at, I think.

7 COUNTY ATTORNEY VINCENT: It does, and it
8 would be a part of it as far as because she did admit it even
9 though you all don't have it. Just to make sure you -- that what
10 I say is clear. Maybe if I didn't make it clear enough, you can
11 -- you have the right to go and look at it. You just can't look
12 at it and use that information yourself without sharing.

13 There's a due process issue there. If you go down
14 there and look at it and say okay that's fine, and you come back
15 and you vote, no one knew what you saw or what your concerns
16 were. You got to -- you got to say okay, I went down there and
17 looked and this is what I saw.

18 COMMISSIONER BRINKER: Yeah, it's like an
19 evidentiary admittance --

20 COUNTY ATTORNEY VINCENT: It is.

21 COMMISSIONER BRINKER: -- that we all need
22 to peruse.

23 COUNTY ATTORNEY VINCENT: If you come back
24 after going down there yourself and vote based upon your view of
25 the property without describing whatever you saw and the reason

1 what you saw there, what you're ending up with then is a decision
2 based upon evidence that's not in the record, and it'll be a
3 defective hearing. That's all. I didn't say you couldn't go
4 down there and do it.

5 CHAIRMAN GRIESHEIMER: We'll wait till
6 Scottie comes back, I got another idea, because I don't want to
7 hold them here either.

8 COUNTY ATTORNEY VINCENT: I understand.

9 [Off the record]

10 CHAIRMAN GRIESHEIMER: Reading the
11 transcript that was the reason why it was denied, and also in the
12 transcript it states -- I've got to the find it again, but that
13 the commercial --

14 COMMISSIONER MAUNE: Page 16.

15 CHAIRMAN GRIESHEIMER: Well, yeah. But
16 the commercial goes all the way up to it.

17 MS. EAGAN: Right.

18 CHAIRMAN GRIESHEIMER: The future land --
19 land use shows our proposed commercial stops at the property to
20 west of it and then starts again one or two properties east of
21 it. I'm not sure why they did it like that on the Future Land Use
22 map. This property and two other ones are Non-Urban and
23 Agricultural on the Future Land Use map and the rest of them are
24 commercial.

25 So I mean, they questioned -- they didn't state it,

1 but they questioned the fact that why was it like that. So
2 that's on page 15. It starts on page 15.

3 COMMISSIONER BRINKER: Okay. We're not
4 voting, are we, just close the public hearing?

5 CHAIRMAN GRIESHEIMER: Yeah, unless you
6 want to make a motion. It's up to you.

7 COMMISSIONER BRINKER: I can make a motion
8 to approve the rezoning request. We've heard pros and cons
9 against it. We have evidence as provided. I'd move to approve.

10 CHAIRMAN GRIESHEIMER: We have a motion
11 made by Commissioner Brinker to approve the -- the rezoning
12 request. Do I hear a second on that?

13 COMMISSIONER MAUNE: I'm going to second
14 that because I'm looking on page 16. He can't get a conditional
15 use permit in Ag Non-Urban anymore, --

16 CHAIRMAN GRIESHEIMER: Okay.

17 COMMISSIONER MAUNE: -- according to her
18 testimony.

19 MS. EAGAN: That's correct.

20 CHAIRMAN GRIESHEIMER: We have a motion
21 made by Commissioner Brinker and seconded by Commissioner Maune
22 to approve the rezoning of this application. Again, this is file
23 Number 150251. All those in favor of that request signify by
24 saying aye.

25 COMMISSIONER MAUNE: Aye.

1 CHAIRMAN GRIESHEIMER: Aye.

2 COMMISSIONER BRINKER: Aye.

3 CHAIRMAN GRIESHEIMER: All those opposed?

4 [None]

5 The ayes have it. This will be on the agenda within
6 a week or two weeks for sure for final approval at our regular
7 Commission meeting. Okay.

8 MR. KING: Thank you.

9 CHAIRMAN GRIESHEIMER: That will conclude
10 the hearing on File Number 150251. Okay.

11 Now we will have the -- we will start on the public
12 hearing for File Number 150167, which are amendments to, I guess,
13 Article 2 of the 2001 Land Use Regulations.

14 MS. EAGAN: It's actually Article 4.

15 CHAIRMAN GRIESHEIMER: Article 4 excuse
16 me. I'm sorry. Go ahead. I'm sorry.

17 MS. EAGAN: I'll start with the hearing
18 procedures.

19 At this time, I would like to place into the record
20 the Franklin County Unified Land Use Regulations as Exhibit A,
21 the official Zoning Map as Exhibit B, the official Master Plan as
22 Exhibit C, and the case files for each case as Exhibit D for all
23 the cases to be heard at this hearing.

24 [Thereupon, evidence was marked

25 for identification as Exhibits A, B, C,

1 and D.)

2 As each case is opened, the staff report will first
3 be read by the Planning and Zoning Department, followed by the
4 Commissioners' questions for the staff.

5 Then if anyone in the audience would like to speak
6 or comment during the hearing, they must first print their name
7 on the sign-in sheet provided and then be sworn in.

8 When it is your turn to speak, you will come to the
9 front of the room to address the Commission and only the
10 Commission, not anyone in the audience, with any questions or
11 comments.

12 Generally, the Applicant is allowed to speak first,
13 followed by those in support of the rezoning and then those
14 opposed. The Applicant may speak again after comments from the
15 general public to address any questions or issues brought up
16 during the hearing.

17 At the conclusion of all questions, comments, and
18 discussion concerning each case, the public hearing for each case
19 will conclude. The decision will generally be made by Commission
20 order at a later date during the County Commission's regular
21 meeting time.

22 And again, this is File 150167. This is amendments
23 to Article 4.

24 What we did a while ago, I think it was back in
25 September or October, we looked at Article 4 again because there

1 were issues that we were having with the Board of Zoning
2 Adjustment and how they were to vote on the file and then how to
3 handle appeals to variances. So Mark and I looked at Article 4
4 again. Rather than just look at the BOZA section, we looked at
5 all of Article 4.

6 So there are quite a few changes. A lot of them are
7 very minor, just to clear up things, add captain letters here,
8 take out words there. So I'm not going to go over every single
9 change in here. I'm just going to go over the ones that I think
10 are important, and then if you guys have any questions over the
11 ones I didn't go over, feel free to ask.

12 The first one is on page -- well, on my page 4.1,
13 Section 79, letter A. We added at the very end of that paragraph
14 it says, "The Planning and Zoning Department may, at their
15 discretion, contact the applicant to inform them of missing
16 information prior to rejecting the application for failure to be
17 complete."

18 We wanted to add that to give us the ability to call
19 applicants if it's something very minor on their application or
20 if it's just a parcel number or something like that. Then well
21 contact them and let them know they can e-mail us.

22 CHAIRMAN GRIESHEIMER: Okay. While you're
23 on that section, if you would, on the second sentence "Failure to
24 submit the complete application..." And you scratched out "may"
25 and you put "will". That should be changed to "shall".

1 MS. EAGAN: What about the first "will"?

2 CHAIRMAN GRIESHEIMER: Same thing. You're
3 going to use will. It should be shall because you use shall on
4 other areas.

5 COMMISSIONER MAUNE: Should that be a
6 "may"?

7 MS. EAGAN: We deleted may. We wanted to
8 get rid of may.

9 CHAIRMAN GRIESHEIMER: Shall is mandatory.
10 May is not, obviously optional.

11 COMMISSIONER MAUNE: Is there a reason why
12 you put will in there?

13 COUNTY ATTORNEY VINCENT: I don't
14 remember.

15 MS. EAGAN: Their failure to complete --
16 failure to submit a complete application will result in the
17 application not being accepted.

18 CHAIRMAN GRIESHEIMER: Which is mandatory.

19 COMMISSIONER BRINKER: Right, yeah.

20 CHAIRMAN GRIESHEIMER: So it should be
21 shall?

22 COMMISSIONER MAUNE: It should be shall.

23 CHAIRMAN GRIESHEIMER: Okay.

24 MS. EAGAN: Moving on?

25 CHAIRMAN GRIESHEIMER: Uh-huh.

1 MS. EAGAN: On the second page under
2 Section 80, we deleted the entire letter C. We realized it was
3 already mentioned in letter A. So there's no use in having it in
4 there twice.

5 Under Section 81, letter B, we realized that when we
6 were talking about this section, we didn't include rezonings in
7 preliminary plats, so we need to make sure that we include it in
8 there about those applications.

9 Next we have under Section 82, Notice of Hearing,
10 we've got rid of the fact that any other person who makes a
11 written request for a notice will be given notice. We wanted to
12 get rid of that because we feel like it opens the door for a lot
13 of mistakes to be made, especially if somebody makes a request
14 and then four months from then we get an application for the
15 hearing, we may forget to give them that notice.

16 Under Section 83, we changed letter A to say, "All
17 public hearings shall be transcribed," and that's because it's
18 required per state statute.

19 Section 88 --

20 CHAIRMAN GRIESHEIMER: Before you go to
21 88, go to Section 86B, Section or Subsection B, line 2.

22 MS. EAGAN: Okay.

23 CHAIRMAN GRIESHEIMER: Okay, unless
24 otherwise and it should be "stated", okay. There was a
25 misspelling there.

1 COMMISSIONER BRINKER: It says stated.

2 MS. EAGAN: I was --

3 CHAIRMAN GRIESHEIMER: Okay. There --

4 well, let me look. Okay. There is a misspelling here. S-T-A --

5 S-T-A-D-E-S.

6 COMMISSIONER BRINKER: I got S-T-A-T-E-D.

7 The 'S' is scratched out. There's a little line through the 'S'.

8 CHAIRMAN GRIESHEIMER: Okay. I can't see

9 it then. Okay. I'll talk your word for it.

10 MS. EAGAN: Okay. Section 88, we

11 completely got rid of. After reading it and reading it, it just

12 didn't make any sense to us. But parts of this section is also

13 in other sections of this article. So we went ahead and got rid

14 of that, which makes me realize I have to change all the section

15 numbers now.

16 COUNTY ATTORNEY VINCENT: Only if they

17 approve it.

18 MS. EAGAN: Only if they approve it.

19 COUNTY ATTORNEY VINCENT: See, you didn't

20 make a mistake that time.

21 MS. EAGAN: That's true.

22 On the page -- well, Section 91, Lapse and

23 Expiration of Permits, we added at the very end of that -- well,

24 at the very end of A, "The one-year time limit shall start on the

25 day all appeals are finalized and the final decision is

1 resolved."

2 We realized we didn't have anything in our
3 regulations for the cases that we disposed of or the cases that
4 went to court. So we have these CUPs expiring before they even
5 have a final decision from BOZA or the court. So we wanted to
6 add that into it.

7 Under Section 95, letter B, we say that the Planning
8 and Zoning Commission shall hold a public hearing in accordance
9 with Missouri law. It used to say at their discretion, but
10 they're required to hold a public hearing.

11 And then under Section 97, the letter C, we wanted
12 to give the Planning and Zoning Commission the ability to put
13 conditions about the transferability of the permit. So if they
14 didn't want it to be transferred with the land, they could put a
15 condition on there that says it's not allowed to be.

16 And then most of the changes of Article 4, this
17 Article 4, this file, happens with part three appeals and
18 variances to the Board of Zoning Adjustment.

19 What we wanted to do is we kind of wanted to simply
20 everything, especially in the appeals section, Section 103. It
21 used to be split up with appeals from conditional use permits and
22 appeals from basically my decision or the administrator's
23 decision. What we did we is we simplified everything. So now we
24 have just appeal procedures. And we kind of go through
25 everything with how the Board of Zoning Adjustment wanted it

1 read. And we did send this to the Board. The only thing we got
2 back Gordon wanted and number 8 under Section 103, he wanted it
3 to say "written evidence may be received into evidence as
4 directed in the by-laws, if any, adopted by the Board."

5 Then under Number 6, he wanted it to say, "Both
6 shall be taken in accordance with the by-laws, if any, adopted by
7 the Board."

8 So that's what Gordon wanted. And then Fred sent an
9 e-mail. And I don't think we can accommodate what Fred wants.
10 He thinks the appeal period of three months is too long, but I
11 think that's state statute.

12 COUNTY ATTORNEY VINCENT: That's state
13 statute.

14 MS. EAGAN: So we can't do anything about
15 that time period.

16 So those were the main changes with this file of
17 Article 4.

18 CHAIRMAN GRIESHEIMER: All right. Are you
19 done, Scottie?

20 MS. EAGAN: Uh-huh?

21 CHAIRMAN GRIESHEIMER: Anyone in the
22 audience wish to testify in favor of the amendments to -- zoning
23 amendments -- amendments to the zoning regulations? Seeing none.

24 Anyone wish to testify in opposition to the
25 amendments to the rezoning -or to the amendments? [None]

1 That will conclude the hearing on Article 4, the
2 amendments to Article 4.

3 Next is File Number 150 --

4 COMMISSIONER BRINKER: Can I have 40
5 seconds, please?

6 CHAIRMAN GRIESHEIMER: Oh, excuse me.

7 [Off the record]

8 Okay. We're going to go ahead and start the
9 hearing on File Number 150235, which is amendments again to
10 Article 4 regarding applications, permits and hearing. Scottie.

11 MS. EAGAN: At this time, I would like to
12 place into the record the Franklin County Unified Land Use
13 Regulations as Exhibit A, the official Zoning Map as Exhibit B,
14 the official Master Plan as Exhibit B, and the case file for each
15 case as Exhibit D for all the cases to be heard at this hearing.

16 [Thereupon, evidence was marked

17 for identification as Exhibits A, B, C,

18 and D.]

19 As each case is opened, the staff report will first
20 be read by the Planning and Zoning Department, followed by the
21 Commissioners' questions for the staff.

22 Then if anyone in the audience would like to speak
23 or comment during this public hearing, they must first print
24 their name on the sign-in sheet provided and then be sworn in.

25 When it is your turn to speak, you will come to the

1 front of the room to address the Commission and only the
2 Commission, not anyone in the audience, with any questions or
3 comments.

4 Generally, the Applicant for the rezoning is allowed
5 to speak first, followed by those in support and then those
6 opposed. The Applicant may speak again after comments from the
7 general public to address any questions or issues brought up
8 during the hearing.

9 At the conclusion of all questions, comments, and
10 discussion concerning each case, the public hearing for each case
11 will conclude. The decision will generally be made by Commission
12 order at a later date during the County Commission's regular
13 meeting time.

14 And File 150235, amendments to Article 4 again.

15 This -- these amendments have to do with Planning
16 and Zoning Commission and what they wanted to do with CUP
17 applications. But the first major change is on page 4.1, letter
18 D.

19 This all stems from me bringing up the fact that we
20 now have a second form to our application that we require
21 personal information, such as driver's license number or Social
22 Security number to make it easier for us to find people in case
23 they become in violation in the future.

24 So Mark wrote up this little letter D. It says:

25 "All permits shall be issued in

1 the name of the applicant, shall identify
2 the property involved, and if applicable,
3 the proposed use. The permit shall
4 incorporate by reference all information
5 included in the application, the plan
6 submitted" --

7 That should be "in", not just the letter.

8 -- "in support of the application. If
9 applicable, the permit shall incorporate any
10 special conditions or requirement lawfully
11 imposed by the permit issuing authority, the
12 appropriate agency or office of the governing
13 body. The application form subject to this
14 section includes the attached applications 1
15 through 7."

16 And he proposed we put all of our applications in
17 Article 4. I would disagree with that, but we'll leave it up to
18 you.

19 CHAIRMAN GRIESHEIMER: Do you want to...

20 COUNTY ATTORNEY VINCENT: Elucidate?

21 CHAIRMAN GRIESHEIMER: Yeah, will you do
22 that.

23 COUNTY ATTORNEY VINCENT: Yes, sir, I
24 would.

25 I really don't have a dog in the fight, but it was

1 quite obvious that the Planning and Zoning Commission members
2 would like to have more input into what goes on, and they raked
3 Scottie over the coals one night, unjustly in my opinion, about
4 the application forms. And so if they want to see the
5 application stuff, let them see it. Let them see it all.

6 MS. EAGAN: Then moving on?

7 COUNTY ATTORNEY VINCENT: Either there or
8 you attach it there and put it there in detail or you attach it
9 as an exhibit. I don't care whichever you want to do.

10 COMMISSIONER MAUNE: Is there a reason why
11 you want it attached as an exhibit?

12 MS. EAGAN: Well, what it all stems from
13 when we were talking -- we were talking with the conflict
14 attorney about a file where we had somebody didn't turn in the
15 second form, which is this application addenda. And he asked
16 where in our regulations does it require them to turn that in in
17 order for it to be a complete application.

18 And I said we don't have anything specific in there,
19 but it does say other information as required by us, and he
20 didn't know if that was good enough to stand up i court or not.
21 So I just bought it up as a question, and then it blew a log into
22 this giant thing of all my applications now being part of the
23 regulations.

24 COUNTY ATTORNEY VINCENT: I just
25 recommended what they asked for.

1 COMMISSIONER MAUNE: Can we leave it there
2 with the that being as part of your Section 4 and leave the thing
3 in there that you can require other things?

4 MS. EAGAN: That's still in there.

5 COMMISSIONER MAUNE: That's still in
6 there.

7 COUNTY ATTORNEY VINCENT: Here's the
8 difference. If it's inside the body of the regulations, you
9 can't amend them without a public hearing. If it's referred to
10 in the exhibit, they can be changed administratively.

11 MS. EAGAN: So if we change fees ever, to
12 change our applications, we'd have to have a public hearing about
13 it.

14 COUNTY ATTORNEY VINCENT: Your call,
15 gentlemen.

16 CHAIRMAN GRIESHEIMER: Again, so if we
17 changed the fees, we raise the fees, we have to have a public
18 hearing?

19 COUNTY ATTORNEY VINCENT: If you do it
20 this way.

21 MS. EAGAN: To change the applications,
22 that would be a part of the regulations.

23 COMMISSIONER BRINKER: I don't like that
24 way. I like the other way.

25 MS. EAGAN: Because right now, for

1 instance, you know, our general application form has the fees for
2 conditional use permanents, rezonings, et cetera. So if we ever
3 went through wanting to change our fees, we're going to have to
4 have a public hearing to change this application to show the new
5 fees. Or fireworks. See, we changed those fees two years ago.

6 So it's just something to think about in that
7 section.

8 COMMISSIONER MAUNE: I think she might be
9 right.

10 COUNTY ATTORNEY VINCENT: Well, I'm not
11 saying that she's not. I just recommended what the Planning and
12 Zoning Commission wanted. I didn't say that they were right.

13 CHAIRMAN GRIESHEIMER: There's no other
14 way of doing it?

15 COUNTY ATTORNEY VINCENT: Exhibits, the
16 way Scottie wants it. It was very contentious the night this
17 took place. Not involving me. Involving a couple of Planning
18 and Zoning Commission members. They were --

19 COMMISSIONER BRINKER: A couple, not a
20 majority?

21 COUNTY ATTORNEY VINCENT: Well, I'm not
22 sure exactly how many.

23 COMMISSIONER BRINKER: Okay.

24 COUNTY ATTORNEY VINCENT: I really don't.

25 MS. EAGAN: Well, and, John, if you have

1 the whole transcript of December, I you might transcript of this.

2 COUNTY ATTORNEY VINCENT: That was a
3 doozy.

4 COMMISSIONER MAUNE: I have no objection
5 to them having that information. I mean, we could just state
6 that it's that's what they get, are the exhibits.

7 COUNTY ATTORNEY VINCENT: The issue is not
8 that. The issue is they want control, and how much control do
9 you want to give them. And so like by including it in the ap- --
10 -- the regulations, you're giving them control over the
11 application process. So they have a right to they'll be looking
12 at it first. They wanted to be more involved. But in doing
13 that, you're going to have to have a public hearing every time
14 you change everything from the fees or the process. And that's a
15 substance of the rules.

16 COMMISSIONER BRINKER: When in spirit, the
17 Board itself is there to make the decision on the information
18 given from the Department and said applicants or whatever versus
19 being involved with the initiating process, et cetera, I think
20 that's something that Board doesn't need the responsibility or
21 the liability of, quite frankly.

22 COMMISSIONER MAUNE: Well, and I'm going
23 to tend to agree with the professional that we've got hired to do
24 the job.

25 MS. EAGAN: Thank you.

1 CHAIRMAN GRIESHEIMER: And the Board, if
2 they have issues, they can approach the Commission. That's fine.

3 MS. EAGAN: Okay. The next part --

4 COUNTY ATTORNEY VINCENT: Okay with me.

5 MS. EAGAN: The next part of the changes
6 would come under part 2, conditional use permits. On mine it's
7 4.20, Section 92. Might be different for you guys.

8 The Planning and Zoning Commissioners wanted, I
9 guess, more leeway in being able to deny conditional use permits.
10 So now we say that even if the Planning and Zoning Commission
11 finds that the application complies with all other provisions of
12 these regulations, the Planning and Zoning Commission may still
13 deny the permit if it concludes based upon clear and convincing
14 evidence submitted at the hearings for the following
15 requirements.

16 "The use will be significantly
17 detrimental to the public health, safety,
18 morals, or general welfare.

19 "The use will cause serious injury
20 to neighboring property or values.

21 "The use will not be compatible with
22 the plan for the area in question, and will
23 comply with all applicable zoning standards
24 and regulations."

25 That should say "will not comply".

1 So those are the things we added for them to be able
2 to deny conditional use permits. Before we had it was just the
3 use would be detrimental to the public health, safety, morals or
4 general welfare of Franklin County.

5 COMMISSIONER BRINKER: Yeah, this makes it
6 has to be pretty convincing in order for them to deny it outside
7 the parameters for those things.

8 COUNTY ATTORNEY VINCENT: The language
9 that Scottie read is more restrictive --

10 COMMISSIONER BRINKER: That's right.

11 COUNTY ATTORNEY VINCENT: -- than it was
12 before, but that language has been approved by courts in many
13 states.

14 COMMISSIONER BRINKER: Okay. What else?

15 MS. EAGAN: Under Section 93C, we added
16 that the Planning and Zoning Commission reserves the right to
17 modify the time parameters of this five minutes. If the time
18 parameters are to be modified, such will be set forth in the
19 Notice of Hearing.

20 And then those are basically the major changes.

21 If you look at Section 97, we deleted all the other
22 stuff about adding additional conditions which relate to these
23 functions because most of them are now in letter C of Section 92.

24 So those are Article 4 changes regarding the
25 Planning and Zoning Commission.

1 CHAIRMAN GRIESHEIMER: Is there anyone in
2 the audience wishing to testify in support of the changes of
3 amendments to Article 4? [None]

4 Is there anyone in the audience wishing to testify
5 in opposition to Article 4 or for informational purposes only?
6 [None]

7 Seeing none, that will include the hearing on
8 amendments to Article 4.

9 And then last but not least, Section 150236,
10 amendments to Article 8, Subdivisions.

11 MS. EAGAN: At this time, I would like to
12 place into the record the Franklin County Unified Land Use
13 Regulations as Exhibit A, the official Zoning Map as Exhibit B,
14 the official Master Plan as Exhibit C, and the case files for
15 each case as Exhibit D for all the cases to be heard at this
16 hearing.

17 [Thereupon, evidence was marked
18 for identification as Exhibits A, B, C,
19 and D.]

20 As each case is opened, the staff report will first
21 be read by the Planning and Zoning Department, followed by the
22 Commissioners' questions for the staff.

23 Then if anyone in the audience would like to speak
24 or comment during this public hearing, they must first print
25 their name on the sign-in sheet provided and then be sworn in.

1 When it is your turn to speak, you will come to the
2 front of the room to address the Commission and only the
3 Commission, not anyone in the audience, with any questions or
4 comments.

5 Generally, the Applicant is allowed to speak first,
6 followed by those in support and then those opposed. The
7 Applicant may speak again after comments from the general public
8 to address any questions or issues brought up during the hearing.

9 At the conclusion of all questions, comments, and
10 discussion concerning each case, the public hearing for each case
11 will conclude. The decision will generally be made by Commission
12 order at a later date during the County Commission's regular
13 meeting time.

14 This is File 150236, amendments to Article 8. These
15 are very minor changes to Article 8.

16 The first one is actually going to be on page
17 8.16 -- or wait no -- 8.8 Section 168, Minor Subdivision Streets.

18 Where it says, "All permanent or temporary dead-end
19 roads, driveways, or driveways greater than 150 feet in length,
20 shall be developed as a cul-de-sac with a minimum radius...of 50
21 feet or a minimum radius of 48 feet", one thing the Planning and
22 Zoning Commission did decide is that whether it has an island or
23 not, it should be a radius of 50 feet. So that's one change that
24 they are proposing to you guys.

25 The second change --

1 COMMISSIONER MAUNE: Okay. On that same
2 one there, it says see in the section may also be accepted, is
3 that "if" approved by the Planning Director.

4 MS. EAGAN: Oh, yeah, it is.

5 CHAIRMAN GRIESHEIMER: Good catch.

6 MS. EAGAN: Okay. So that's going to have
7 be changed in other areas too, just so you're all aware.

8 COUNTY ATTORNEY VINCENT: See what you
9 did.

10 MS. EAGAN: Okay. The second change is
11 then on 8.16. Again with the cul-de-sac, and I'll change "is" to
12 "if".

13 And then the last change is going to be on page
14 8.18. And this was actually brought up by Commissioner Maune.
15 It's the regulations read that any subdivision with more than
16 four lots, less than five acres, so we made the change that it's
17 six lots and for some reason that change just never got over to
18 this section of the code. So it's going to say any subdivision
19 with more than six lots with less than five acres.

20 And those are the only changes.

21 CHAIRMAN GRIESHEIMER: Okay.

22 Is anyone in the audience wish to testify in support
23 of the amendments to the regulations regarding Article 8? [None]

24 Anyone in the audience wish to testify against the
25 amendments in regards to the regulations in Article 8 or for

1 informational purposes only? [None]

2 Seeing none, any Commissioners'? I forgot that to
3 do that on the other ones. [None] Okay.

4 Seeing none, that will conclude the hearing on the
5 amendments to Article 8, with File 150236.

6 And unless anybody has anything, that will conclude
7 the public hearing today. I just need a motion to adjourn.

8 COMMISSIONER MAUNE: Motion we adjourn.

9 CHAIRMAN GRIESHEIMER: Motion made by
10 Commissioner Maune.

11 COMMISSIONER BRINKER: Second.

12 CHAIRMAN GRIESHEIMER: Seconded by
13 Commissioner Brinker to adjourn. All those in favor.

14 COMMISSIONER MAUNE: Aye.

15 COMMISSIONER BRINKER: Aye.

16 CHAIRMAN GRIESHEIMER: Aye.

17 [Thereupon, the proceedings concluded at

18 2:48 p.m.]

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CERTIFICATE OF REPORTER

I, PATSY A. HERTWECK, Professional Court Reporter
and Notary Public within and for the State of Missouri, before
whom the foregoing proceeding was taken, do hereby swear that the
aforementioned was held at the time and in the place previously
described.

IN WITNESS WHEREOF, I have hereunto set my hand.

Patsy A. Hertweck, Court Reporter
Notary Public, State of Missouri

My Commission Expires:
August 26, 2018